

## SENATE BILL No. 195

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 10-13-3; IC 20-24-6-11; IC 20-26-5-10; IC 20-28-5-9.

**Synopsis:** Criminal history checks for teachers. Requires a national criminal history background check for an applicant for: (1) certificated employment with a school corporation or charter school; and (2) a teacher license. Requires each school corporation and charter school to adopt a policy concerning criminal history background checks.

**Effective:** July 1, 2007.

**Miller**

January 11, 2007, read first time and referred to Committee on Judiciary.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 195

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 10-13-3-16 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) As used in this  
3 chapter, "qualified entity" means a business or an organization, whether  
4 public, private, for-profit, nonprofit, or voluntary, that provides care or  
5 care placement services.

6 (b) The term includes **the following**:

7 (1) A business or an organization that licenses or certifies others  
8 to provide care or care placement services.

9 (2) **The department of education.**

10 SECTION 2. IC 10-13-3-39, AS AMENDED BY P.L.234-2005,  
11 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2007]: Sec. 39. (a) The department is designated as the  
13 authorized agency to receive requests for, process, and disseminate the  
14 results of national criminal history background checks that comply with  
15 this section and 42 U.S.C. 5119a.

16 (b) A qualified entity may contact the department to request a  
17 national criminal history background check on any of the following



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1 persons:

2 (1) A person who seeks to be or is employed with the qualified  
3 entity. A request under this subdivision must be made not later  
4 than three (3) months after the person is initially employed by the  
5 qualified entity.

6 (2) A person who seeks to volunteer or is a volunteer with the  
7 qualified entity. A request under this subdivision must be made  
8 not later than three (3) months after the person initially volunteers  
9 with the qualified entity.

10 (c) A qualified entity must submit a request under subsection (b) in  
11 the form required by the department and provide a set of the person's  
12 fingerprints and any required fees with the request.

13 (d) If a qualified entity makes a request in conformity with  
14 subsection (b), the department shall submit the set of fingerprints  
15 provided with the request to the Federal Bureau of Investigation for a  
16 national criminal history background check for convictions described  
17 in IC 20-26-5-11. The department shall respond to the request in  
18 conformity with:

19 (1) the requirements of 42 U.S.C. 5119a; and

20 (2) the regulations prescribed by the Attorney General of the  
21 United States under 42 U.S.C. 5119a.

22 (e) This subsection applies to a qualified entity that:

23 (1) is not a **charter school**, a school corporation, or a special  
24 education cooperative; or

25 (2) is a **charter school**, a school corporation, or a special  
26 education cooperative and seeks a national criminal history  
27 background check for a volunteer.

28 After receiving the results of a national criminal history background  
29 check from the Federal Bureau of Investigation, the department shall  
30 make a determination whether the applicant has been convicted of an  
31 offense described in IC 20-26-5-11 and convey the determination to the  
32 requesting qualified entity.

33 (f) This subsection applies to a qualified entity that:

34 (1) is a **charter school**, a school corporation, or a special  
35 education cooperative; and

36 (2) seeks a national criminal history background check to  
37 determine whether to employ or continue the employment of a  
38 certificated employee or a noncertificated employee of a **charter  
39 school or** school corporation or an equivalent position with a  
40 special education cooperative.

41 After receiving the results of a national criminal history background  
42 check from the Federal Bureau of Investigation, the department may

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exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the **charter school**, school corporation, or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity ~~(as defined in IC 10-13-3-16)~~ that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency.

SECTION 3. IC 20-24-6-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. (a) A charter school shall adopt a policy concerning criminal history information for individuals who:**

**(1) apply for:**

**(A) employment with the charter school; or**

**(B) employment with an entity with which the charter school contracts for services;**

**(2) seek to enter into a contract to provide services to the charter school; or**

**(3) are employed by an entity that seeks to enter into a contract to provide services to the charter school;**

**if the individuals are likely to have direct and ongoing contact with children within the scope of the individuals' employment.**

**(b) A charter school shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies.**

**(c) A policy adopted under this section must require a national criminal history background check under IC 10-13-3-39 for each individual who applies for certificated employment with the charter school.**

**(d) A policy adopted under this section may require any of the following:**

**(1) The charter school may request limited criminal history information concerning each applicant for noncertificated employment from a local or state law enforcement agency before or not later than three (3) months after the applicant's employment by the charter school.**

**(2) Each individual hired for noncertificated employment may**

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be required to provide a written consent for the charter school to request under IC 10-13-3 limited criminal history information or a national criminal history background check concerning the individual before or not later than three (3) months after the individual's employment by the charter school. The charter school may require the individual to provide a set of fingerprints and pay any fees required for a national criminal history background check.

(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in IC 10-13-3-11) to the charter school.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under IC 10-13-3;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the charter school the individual's limited criminal history and a document verifying a disposition (as defined in IC 10-13-3-7) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual who:

(A) seeks to enter into a contract to provide services to a charter school; or

(B) is employed by an entity that seeks to enter into a contract with a charter school;

may be required at the time the contract is formed to comply with the procedures described in subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a charter school to provide student services in which the entity's employees have direct contact with students in the school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the charter school. Failure to comply

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with subdivisions (2), (4), or (5), as required by the charter school, is grounds for termination of the contract. An entity that enters into a contract with a charter school to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a charter school may obtain the information.

(e) If an individual is required to obtain a national criminal history or limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(f) Information obtained under this section must be used in accordance with IC 10-13-3-29 or IC 10-13-3-39.

SECTION 4. IC 20-26-5-10, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A school corporation, including a school township, shall adopt a policy concerning criminal history information for individuals who:

(1) apply for:

(A) employment with the school corporation; or

(B) employment with an entity with which the school corporation contracts for services;

(2) seek to enter into a contract to provide services to the school corporation; or

(3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;

if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a school township, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies.

**(c) A policy adopted under this section must require a national criminal history background check under IC 10-13-3-39 for each individual who applies for certificated employment with the school corporation.**

(d) A policy adopted under this section may require any of the following:

(1) The school corporation, including a school township, may request limited criminal history information concerning each applicant for noncertificated employment ~~or certificated~~

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1 ~~employment~~ from a local or state law enforcement agency before  
 2 or not later than three (3) months after the applicant's employment  
 3 by the school corporation.

4 (2) Each individual hired for noncertificated employment ~~or~~  
 5 ~~certificated employment~~ may be required to provide a written  
 6 consent for the school corporation to request under IC 10-13-3  
 7 limited criminal history information or a national criminal history  
 8 background check concerning the individual before or not later  
 9 than three (3) months after the individual's employment by the  
 10 school corporation. The school corporation may require the  
 11 individual to provide a set of fingerprints and pay any fees  
 12 required for a national criminal history background check.

13 (3) Each individual hired for noncertificated employment may be  
 14 required at the time the individual is hired to submit a certified  
 15 copy of the individual's limited criminal history (as defined in  
 16 IC 10-13-3-11) to the school corporation.

17 (4) Each individual hired for noncertificated employment may be  
 18 required at the time the individual is hired to:

19 (A) submit a request to the Indiana central repository for  
 20 limited criminal history information under IC 10-13-3;

21 (B) obtain a copy of the individual's limited criminal history;  
 22 and

23 (C) submit to the school corporation the individual's limited  
 24 criminal history and a document verifying a disposition (as  
 25 defined in IC 10-13-3-7) that does not appear on the limited  
 26 criminal history.

27 (5) Each applicant for noncertificated employment ~~or certificated~~  
 28 ~~employment~~ may be required at the time the individual applies to  
 29 answer questions concerning the individual's limited criminal  
 30 history. The failure to answer honestly questions asked under this  
 31 subdivision is grounds for termination of the employee's  
 32 employment.

33 (6) Each individual that:

34 (A) seeks to enter into a contract to provide services to a  
 35 school corporation; or

36 (B) is employed by an entity that seeks to enter into a contract  
 37 with a school corporation;

38 may be required at the time the contract is formed to comply with  
 39 the procedures described in subdivisions (2), (4), and (5). An  
 40 individual who is employed by an entity that seeks to enter into a  
 41 contract with a school corporation to provide student services in  
 42 which the entity's employees have direct contact with students in

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a school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation. Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract. An entity that enters into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.

~~(c)~~ **(e)** If an individual is required to obtain a **national criminal history or** limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

~~(d)~~ **(f)** Information obtained under this section must be used in accordance with IC 10-13-3-29 **or IC 10-13-3-39(g)**.

SECTION 5. IC 20-28-5-9, AS ADDED BY P.L.246-2005, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) An applicant must do the following:

(1) Submit **the applicant's fingerprints and** a request to the Indiana central repository for ~~limited~~ **a national criminal history information background check** under IC 10-13-3.

~~(2) Obtain a copy of the limited criminal history for the applicant from the repository's records.~~

~~(3) Submit to~~ **(2) Provide permission for** the department to **receive a copy of** the ~~limited~~ **national criminal history background check** for the applicant.

~~(4) (3)~~ Submit to the department a document verifying a disposition that does not appear on the ~~limited~~ **national criminal history background check** for the applicant.

(b) The department may deny the issuance of a license or certificate to an applicant who is convicted of an offense for which the individual's license may be revoked or suspended under this chapter.

(c) The department must use the information obtained under this section in accordance with ~~IC 10-13-3-29~~ **IC 10-13-3-39(g)**.

(d) An applicant is responsible for all costs associated with meeting the requirements of this section.

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